

**UNITED STATES GOVERNMENT  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 10**

SOUTHEASTERN INDUSTRIAL SERVICES, INC.  
d/b/a BRADLEY STEEL, INC.

Employer<sup>1</sup>

and

Case 10-RC-15285

SHOPMEN'S LOCAL UNION NO. 526 OF THE  
INTERNATIONAL ASSOCIATION OF BRIDGE,  
STRUCTURAL, ORNAMENTAL AND  
REINFORCING IRON WORKERS (AFL-CIO)

Petitioner

**DECISION AND ORDER**

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, herein referred to as the Act, a hearing was held before a hearing officer of the National Labor Relations Board, herein referred to as the Board.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned.

Upon the entire record in this proceeding,<sup>2</sup> the undersigned finds:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.
2. The Employer is a Tennessee corporation with a facility located in Cleveland, Tennessee, where it is engaged in the fabrication and erection of industrial

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<sup>1</sup> The Employer's name appears as amended at the hearing.

<sup>2</sup> The Employer submitted a brief, which has been duly considered.

steel. During the past twelve months, a representative period, the Employer has purchased goods in excess of \$50,000 from outside the state of Tennessee. During that same period of time the Employer has performed services in excess of \$50,000 outside the state of Tennessee. The Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein.

3. The Petitioner is a labor organization within the meaning of Section 2(5) of the Act and claims to represent certain employees of the Employer.

4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of the Section 9(c)(1) and Section 2(6) and (7) of the Act.

5. There is no bargaining history regarding the petitioned-for unit or the unit the Employer seeks.

6. Positions of the Parties On the Appropriate Unit: The parties are in general agreement as to the scope and composition of the appropriate unit except that the Petitioner would exclude and the Employer would include detailers and the purchasing agent/expediter in the appropriate unit<sup>3</sup> Petitioner seeks a unit consisting of all production and maintenance employees, including a truck driver, employed by the Employer at its Cleveland, Tennessee facility. Petitioner would exclude all office employees, clerical employees, watchmen, professional employees, guards and supervisors, as defined in the Act. As noted, the Petitioner would exclude the employees

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<sup>3</sup> The parties stipulated that the truck driver, whose name is Kenneth Roland, be included in the Unit and that a casual employee by the name of Willard Snyder be excluded from the unit. The parties also consider the painter to be a production employee. The parties stipulated that Jerry Miller, who supervises the detailers, Gene Caldwell and Jimmy Caldwell, production supervisors, and Chuck Burger, President, are statutory supervisors and, therefore, are excluded from any appropriate unit. Finding nothing to the contrary, the truck driver and painter are included and the casual employee and the statutory supervisors are excluded from the unit.

classified as "detailers" - there are three - and a fourth employee classified as a "purchasing agent/expediter." At the hearing, this purchasing agent/expediter position was also referred to as a detailer when describing general terms and conditions of employment. Petitioner asserts that the detailers and purchasing agent/expediter should be excluded because they lack a community of interest with the other production and maintenance employees. At the hearing, Petitioner asserted that it did not wish to proceed to an election in a unit other than its petitioned-for unit. The petitioned-for unit would consist of approximately 11 employees.

The Employer asserts that the detailer and purchasing agent/expediter positions should be included in the production unit as plant clerical employees because they have similar wages, benefits, and working conditions, as well as interrelated work activities and mutual dependency. The unit sought by the Employer would consist of approximately 15 employees.

7. The Employer's Overall Operations: The Employer is an industrial and commercial contractor and subcontractor whose operations include structural fabrication, miscellaneous fabrication and erection of the items it fabricates. Its manufacturing facility is a 20,000 square foot building in Cleveland, Tennessee, which is partitioned into four production bays, an adjacent work area for the detailers and the purchasing agent/expediter, and the corporate office space. This is the only facility at issue in this case.

Bay 1, where approximately four production employees are assigned, fabricates all the heavy structural steel. Other employees may visit this area because one of the three restrooms is located there. Bay 2 is primarily used for loading/unloading product

and materials and periodically for large fabrication projects. Bay 2 is also the work area for the painter, who is considered a production employee by both Petitioner and the Employer. The painter assists the truck driver with loading. The common lunch/break room used by all employees is located off of Bay 2. Bay 3, where one production employee is usually assigned, is the parts bay where parts are stored for the structural work in Bays 1 and 4. Bay 4, where approximately five production employees are assigned, is used primarily for fabricating handrails, stairs and other miscellaneous metals.

The Employer's normal workflow is as follows. When a job is contracted, the Employer receives architectural drawings and engineering specifications from the client. The detailers take these drawings and specifications and put them in a form that the production crew can use to prefabricate and prenumber items in order for the erection crew to assemble them in the field. When detailing completes its drawings, management creates a work order that describes what needs to be made and delivery deadlines. The work order is given to the purchasing agent/expediter for purchasing and expediting of the materials. When the materials necessary for the project are received in the shop, the work order and drawings prepared by the detailers are already in the shop. At this point, the production crew begins the fabrication process. The Employer generally runs two to three projects at one time in the structural bay. Current production projects could be projects that detailing worked on a month or two earlier. At the same time, detailing could be working on projects that may not go to production for a month or more.

Work Location and Duties of the Detailers and Purchasing Agent/Expediter: The work areas for the detailers and purchasing agent/expediter are at the end of Bay 4.

Their work areas are separated from the production bays by a partition wall. The partition is needed primarily to protect computer equipment in the work area from the dust generated in the production process. Near the purchasing agent/expediter work area and Bay 4 is a restroom.

The Employer describes the detailing activities as the support group for its production workers. The Employer has made a substantial investment in computers and software. As a preliminary step in the fabrication process, detailers, working on computer aided design machines, take architectural blueprints and specifications for a building project and generate drawings in a format that the production workers can use to manufacture the ordered items. This same preliminary step uses material sorting software to generate information that the purchaser/expeditor uses to buy materials needed to complete the project.

The detailers and purchasing agent/expediter receive on-the-job training, and there are no educational requirements for the jobs. The detailers are not engineers and aside from the computer aided drafting machines and plotters and printers used to print their drawings, they do not use special tools or instruments to perform their duties. In support of its argument that the detailers are not technical employees, the Employer presented testimony about their exercise of independent judgment. This testimony established that the detailers exercise of independent judgment is limited to consulting with and making requests for information from engineers, architects, and others to clarify a specification, and they may consult with a foreman to determine whether the production machinery can perform a certain process. The detailers have no inspection responsibility over the production work but they may oversee welding specifications for

"critical connections" and generally ensure that production employees understand the specifications required by the architects and engineers. Inspections are performed by outside inspectors and President Burger. When the detailers complete the drawings, they are submitted, through their supervisor, to the architect and structural engineer for final approval.

The primary function of the purchasing agent/expediter is to ensure that the production employees have the materials needed for the production process, and he is responsible for expediting the finished product from the production floor to the job sites. In performing these expediting duties, the purchasing agent/expediter is in frequent communication with the production employees. After detailing completes its drawings and a work order is prepared, the work order is given to the purchasing agent/expediter for purchasing and expediting of the required materials. From time to time, this employee performs duties similar to the detailers. Specifically, this employee develops sketches and provides them to outside vendors to fabricate unique items, which are part of the overall project, but cannot be made by the Employer's production employees. After these parts are fabricated by outside vendors, he forwards them to the production employees. The employee currently in the position possesses a commercial driver's license and has performed truck-driving duties on occasion.

Employee Interchange and Interaction: The Employer's President testified that while there has been limited temporary and permanent interchange between production and detailer positions in the past, there are no current employees who have interchanged positions. The last occurrence was about one year ago. In the past, employees have switched from one position to the other because they performed better in one job over the

other, and detailers have worked in the production shop on weekends to earn extra money.

Petitioner did not present evidence to dispute the Employer's testimony about the regularity of interaction between the purchasing agent/expediter and production employees. The purchaser agent/expediter necessarily works closely with supervisory production personnel and, by delivery of materials, has frequent work contacts with nonsupervisory production employees. However, the parties do differ over the degree of interaction between production employees and detailers.

The Employer's President testified that production employees are not required to go through a foreman in order to discuss a project with a detailer, and on a daily basis, detailers and production workers communicate by telephone and face-to-face. He estimates that detailers spend an average of 10% with a variance of 5% (5%-15%) of their time communicating face-to-face with the production employees and supervisors. On these occasions, the detailers go to the shop area or the production employees come to the detailers' work area. These discussions involve questions about the drawings particularly with regard to specialty items.

On the other hand, Petitioner presented testimony from a recently hired production employee, who worked in Bay 4 for about 3 months and in Bay 2 for a couple of days. This employee testified that he never had a discussion about a drawing with a detailer. Instead, he raises questions with his foreman and the foreman discusses it with the detailer. Although the testimony of this employee was somewhat inconsistent, he

testified that he had seen detailers talking with production employees on the floor, but he was not privy to the content of the conversations.<sup>4</sup>

As for contact in the common lunch/breakroom, there is a scheduled time for lunch and breaks for the hourly employees. Although the detailers and production employees share the same breakroom, they are allowed to eat lunch at their workstations. They do not typically take their lunch and breaks together in the break room but both groups of employees visit the breakroom to get coffee.

Supervision, Pay, Benefits and Other General Working Conditions: The detailers are supervised by Jerry Miller. The Bay 1 production employees are supervised by Gene Caldwell and in Bay 4 by Jimmy Caldwell. These supervisors report directly to Chuck Burger, the Employer's President.

Detailers and production employees are hourly paid, and the wage range of \$8 to \$16 dollars per hour is similar for both groups of employees. All hourly employees clock in and out at the same location. Their work schedules are approximately the same except that the detailers work from 8 a.m. to 5 p.m. while the production workers and the truck driver start an hour earlier.

None of these hourly employees receive benefits such as life insurance, 401(k) plan, bereavement pay, educational assistance, paid sick leave, or health insurance. There are no written job descriptions or work rules for any of these employees. The

Employer's informal "three-strike" attendance policy and the Tennessee Drug-Free Workplace Program plan applies equally to detailers and production employees.

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<sup>4</sup> In view of this employee's short tenure with the Employer and his testimony that he had observed the detailers talking to production employees but did not know what they were talking about, I find the



### Analysis and Conclusions

Based on the foregoing, and the record as a whole, I find that detailers and the purchasing agent/expediter do share a community of interest with the production employees and that granting the petitioned-for unit would create a fragmented and inappropriate unit. Accordingly, I shall include the detailers and the purchasing agent/expediter in the unit found appropriate herein.

Board precedent is well established that a certifiable bargaining unit need only be an appropriate unit, not the most appropriate unit. Overnite Transportation Co., 322 NLRB 723 (1996). Therefore, the unit requested by a petitioner is the starting point for any unit determination. If the petitioned-for unit is an appropriate unit, even though it may not be the only appropriate unit or the most comprehensive unit, the inquiry ends. If, however, it is inappropriate, the Board may scrutinize the alternative proposals of the parties and, in its discretion, the Board may select a unit that is different from the alternative proposals. Id. Further, an election will not be directed in a unit that is only an arbitrary segment of a broader grouping of employees sharing a sufficient community of interest. Seaboard Marine, 327 NLRB 556 (1999).

In Overnite, supra, the Board found that the inclusion of mechanics in a unit of drivers and dockworkers was not required because the mechanics had a sufficiently distinct community of interest from the drivers and dockworkers to enable them to be represented in a separate appropriate unit. Id. at 726. Therefore, to determine whether the unit sought by the Petitioner is an appropriate unit, I must also consider whether the employees the Petitioner seeks to exclude could appropriately enjoy separate representation.

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testimony of the Employer's President to be more reliable.

Community of interest principles govern the appropriateness of a given unit. In analyzing community of interest among employee groups, the Board considers bargaining history; functional integration; employee interchange and contact; similarity of skills, qualifications and work performed; common supervision; and similarity in wages, hours, benefits and other terms and conditions of employment. Furthermore, although Section 9(c)(5) of the Act provides that the extent of union organization shall not be the "controlling" factor, it is certainly a factor that the Board considers, in conjunction with other factors. Id. In the present case, there is no history of collective bargaining for any of the employees at issue to provide guidance with respect to their unit placement.

Applying the above principles to the instant case, I find that the unit sought by Petitioner is not an appropriate unit because it is not composed of a distinct and homogeneous group of employees with interests separate from those of the employees Petitioner seeks to exclude. The detailers and purchasing agent/expediter work in the production area of the facility and perform functions closely allied to the production processes. In short, the completion of the Employer's fabrication and erection projects is only accomplished through the coordinated efforts of the detailers, purchasing agent/expediter, production employees, painter and truck driver. See e.g. The Boeing Co., 337 NLRB No. 24 (smallest appropriate unit must include all production and maintenance employees where work is highly integrated and servicing of aircraft could only be accomplished through coordinated efforts), Chromalloy Photographic Industries, 234 NLRB 1046 (petitioned-for unit of camera repair employees inappropriate where the

employer's business was a highly integrated process and employees performed work that was closely related to the employer's final product).

The detailers and purchasing agent/expediter share, with production employees, the criteria relied upon to determine community of interest, including work situs, similar skill levels, functional integration, contact, fringe benefits and general working conditions. These employees perform duties that are analogous to those of plant clericals. In particular, the function of the purchasing agent/expediter is similar to expeditors found by the Board in previous decisions to be plant clerical employees who have been included in production and maintenance units. See e.g., Raytee Co., 228 NLRB 646 (expediter included in unit as plant clerical where his duties were directly concerned with unit work). Since these employees are neither technical, managerial, nor supervisory employees, I find that they should be included with the overall production and maintenance unit.

In reaching this decision, I recognize that the detailers have a different supervisor, perform different duties, and have little or no transfer of jobs with the production employees. However, these distinctions are offset by the high degree of functional integration, frequency of contact, and mutuality of interest in wages, hours and other working conditions. Inland Steel Co., 308 NLRB 868, 869 (similarities in working conditions, and specifically the common salary and benefit structure, outweighed any lesser variances in supervision or specific work location), Mack Trucks, Inc., 214 NLRB 382, 386 (although some employees performed dissimilar tasks, their work related to a common project). Therefore, I find that a unit encompassing the detailers, production

employees, purchasing agent/expediter, painter and truck driver constitute the smallest appropriate unit.

In light of Petitioner's unwillingness to proceed to an election in a unit that includes the detailers and purchasing agent/expediter, I shall dismiss the petition.

### **ORDER**

IT IS HEREBY ORDERED that the petition filed herein in be, and hereby is, DISMISSED.

### **RIGHT TO REQUEST REVIEW**

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, NW, Washington, DC, 20570. This request must be received by the Board in Washington by May 28, 2002.

**DATED** this 14<sup>th</sup> day of May, 2002, at Atlanta, Georgia.

/s/ Martin M. Alrook

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